

NCA
VOC FOR PGM/FN
BACKGROUNDER NO. 5-6010
CLAUDIO ESKENAZI

JULY 19, 1978

INTER-AMERICAN HUMAN RIGHTS COURT

ANNCR:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS CAME INTO BEING YESTERDAY (JULY 18) AFTER BEING RATIFIED BY ELEVEN NATIONS OF THE WESTERN HEMISPHERE. VOA'S CLAUDIO ESKENAZI HAS THIS BACKGROUND REPORT.

NARR:

IN NOVEMBER 1969 THE ORGANIZATION OF AMERICAN STATES HELD A MEETING IN SAN JOSE, COSTA RICA, WHERE IT DRAFTED THE AMERICAN CONVENTION ON HUMAN RIGHTS. THE TREATY PROVIDED FOR THE CREATION OF AN INTER-AMERICAN COURT OF HUMAN RIGHTS COMMITTING ITS SIGNATORIES TO INCREASE THE PROTECTION OF THESE RIGHTS THROUGHOUT THE HEMISPHERE. ELEVEN RATIFICATIONS WERE REQUIRED TO BRING THE CONVENTION INTO FORCE. THIS WEEK, NINE YEARS LATER, THE ISLAND OF GRENADA -- THE SMALLEST INDEPENDENT NATION IN THE WESTERN HEMISPHERE -- BECAME THE ELEVENTH COUNTRY TO RATIFY THE CONVENTION.

THE HUMAN RIGHTS CONVENTION WAS SIGNED BY PRESIDENT CARTER A YEAR AGO. WHEN HE SPOKE BEFORE LAST MONTH'S O.A.S. GENERAL ASSEMBLY, MISTER CARTER PROMISED TO ASK THE SENATE TO RATIFY THE CONVENTION AS SOON AS POSSIBLE. AT THAT TIME, THREE MORE RATIFICATIONS WERE NEEDED TO BRING THE TREATY INTO EFFECT. AND SOON THEREAFTER PANAMA AND EL SALVADOR ADDED THEIR APPROVAL.

THE HUMAN RIGHTS COURT WILL CONSIST OF SEVEN JUDGES ELECTED BY THE O.A.S. GENERAL ASSEMBLY AND WILL MEET FOR AT LEAST TEN DAYS EACH YEAR IN SAN JOSE. SIMILAR TO THE MEMBERS OF THE INTER-AMERICAN HUMAN RIGHTS COMMISSION, THE SEVEN JUDGES WILL BE ELECTED IN AN INDIVIDUAL CAPACITY FROM AMONG JURISTS NOMINATED BY O.A.S. MEMBER NATIONS. THEY WILL BE EXPECTED TO FUNCTION INDEPENDENTLY

OF THEIR GOVERNMENTS. THE HUMAN RIGHTS COURT WILL NORMALLY HEAR CASES BROUGHT BY THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS. BUT THE NATIONS THAT HAVE RATIFIED THE CONVENTION MAY ALSO INITIATE CASES.

FOR THE TIME BEING, THE CONVENTION WILL BE IN FORCE ONLY FOR THE ELEVEN GOVERNMENTS THAT HAVE RATIFIED IT. IN ADDITION TO GRENADA, PANAMA AND EL SALVADOR, THEY ARE COLOMBIA, COSTA RICA, THE DOMINICAN REPUBLIC, ECUADOR, GUATEMALA, HAITI, HONDURAS AND VENEZUELA. COSTA RICA ALONE, THE FIRST NATION TO RATIFY THE CONVENTION, HAS ACCEPTED THE NEW COURT'S JURISDICTION IN HUMAN RIGHTS CASES WITHOUT RESERVATIONS.

ACCORDING TO THE HUMAN RIGHTS CONVENTION, THE NATIONS THAT ADHERE TO IT HAVE TO COMPLY WITH THE COURT'S JUDGMENT IN ALL CASES TO WHICH THEY ARE PARTIES. FURTHERMORE, THE COURT'S DECISIONS WILL BE FINAL AND NOT SUBJECT TO APPEAL.

THE INTER-AMERICAN COURT OF HUMAN RIGHTS IS EXPECTED TO BE PATTERNED AFTER THE EUROPEAN COURT OF HUMAN RIGHTS. FOLLOWING THE EUROPEAN EXPERIENCE, THE INTER-AMERICAN HUMAN RIGHTS COMMISSION WILL BE ABLE TO NEGOTIATE BEHIND THE SCENES WITH AN OFFENDING GOVERNMENT TO HALT HUMAN RIGHTS ABUSES RATHER THAN BE SUBJECTED TO A PROCESS THAT COULD END IN THE HUMAN RIGHTS COURT.

U.S. OFFICIALS ARE PLEASED THAT THE HUMAN RIGHTS CONVENTION IS NOW IN EFFECT. THEY ALSO FEEL THAT THIS SHOULD GIVE THE NECESSARY IMPETUS TO THE CARTER ADMINISTRATION'S EFFORTS IN SEEKING SENATE RATIFICATION. BUT A MAJOR WEAKNESS OF THE INTER-AMERICAN HUMAN RIGHTS COURT IS THAT SO FAR LATIN AMERICA'S THREE MOST IMPORTANT NATIONS -- BRAZIL, MEXICO AND ARGENTINA -- HAVE REFUSED TO SIGN THE HUMAN RIGHTS CONVENTION.

JS/RTD